1941. **File No.** Wakf II 141

K Legal DEPARTMENT

B. BRANCH

Subject:— Rules and Notifications

under

Mussalman Wakf Act 1923

File No. Wakf II 141

Slip 24 B e.

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Office of the R.L.A.

A revised draft notification is sent herewith.

2. Instead of the proposed rule 2A, a new clause (vii) containing the same provisions has been inserted in rule 3.

3. It would not be proper to use the words "by the trust deed" in column 5 in Schedule B (page 69) as a wakf can be created otherwise than by a trust (see section 3(2) of the Act). It is therefore suggested that the words, "under the wakf" may be used instead. (See section 3(i)(f)).

The rules require previous publication under sub-section (1) of section 11 of the Mussalman Wakf Act, 1923. The requisite draft for provisional publication is appended.

Sd/------ 3/6
Remembrancer of Legal Affairs.

U.H. to R.D. No. 5115, dated the 5th June 1941.

R.H.S. 26/4.

NOTIFICATION.

Revenue Department.

Bombay Castl 1941.

No. The following draft of a notification which it is proposed to issue under section 11 of the Musalman Wakf Act, 1923 (XLVI of 1923) is published as required by sub-section (1) of the said section 11, for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration by the Government of Bombay on or after the 194

2. Any objection or suggestion which may be received by the Secretary to the Government of Bombay, Revenue Department from any person with respect to the said draft on or before the date aforesaid will be considered by Government :-

Draft Notification.

In exercise of the powers conferred by section 11 of the Musalman Wakf Act, 1923 (XLVI of 1923), the Government of Bombay is pleased to amend the Bombay Musalman Wakf Rules, 1936, published in Government Notification in the Revenue Department, No. [illegible], dated the 4th January 1937, as follows, namely :-

In the said rules —

1. In rule 2 after clause (v) the following new clauses shall be inserted,

namely:-

"(vi) the address of the trust office, if any; and

(vii) particulars of the amounts respectively set apart under the wakf for -

(a) educational purposes,

(b) medical relief,

(c) relief of poverty, and

(d) other charitable purposes.".

2. For rule 25 the following shall be substituted, namely:-

"25. List of wakfs, and statement of sums to credit of Wakf Administration Fund.- The list of wakfs and the statement of the sums standing to the credit of the Wakf Administration Fund to be published as provided in section 67 shall be published annually on or about the 1st April, in the form given in Schedule F in a newspaper circulating in the district and in the form given in Schedule G in the Official Gazette.

3. For Schedule D the following shall be substituted, namely:-

SCHEDULE B.

(See Rules 5 and = 17).

Statement showing the expenditure of Wakf property situated at for the year ending.

Assessment, cesses and other Government dues.	Municipal and other taxes.	Charges incurred for maintenance and necessary improvement of property including repairs.	Pay and allowances to servants.	Sums, if any, set apart under the Wakf for (a) purely religious purposes; (b) educational purposes; (c) medical relief; (d) relief of poverty (e) other charitable purposes; (f) remuneration to Mutavalis; and (g) other purposes.	Expenditure incurred during the year for (a) purely religious purposes; (b) educational purposes; (c) medical relief; (d) relief of poverty; (e) other charitable purposes; (f) remuneration to Mutavalis; and (g) other purposes.	Total expenditure.	Total income	The names and addresses of the trustees of offices of the Trustees. → Balance	The address of the trust
1	2	3	4	5	6	7	8	9	10
				(a) (b) (c) (d) (e) (f) (g)	(a) (b) (c) (d) (e) (f) (g)				

B.K.S..26/4.

4 - After Schedule F the following new Schedule will be added, namely:-

SCHEDULE G.

(See Rule 25).

(1) The list of Wakfs to be published under section 69.

Serial No.	Name of the Wakf.	Taluka and Village in which Wakf if situated.	Details of property of the Wakf.	Sums, if any, set apart under the Wakf for (a) purely religious purposes, (b) educational purposes, (c) medical relief, (d) relief of poverty, (e) other charitable purposes (f) remuneration to Mutavalis and (g) other purposes.	Expenditure incurred during the year for (a) purely religious purposes, (b) educational purposes, (c) medical relief, (d) relief of poverty, (e) other charitable purposes, (f) remuneration to Mutavalis, and (g) other purposes.	The name of the Mutavali.	The names and addresses of the Trustees.	The address of the Trust office, if any.	Amount paid to the District Wakf Administration Fund.
1	2	3	4	5	6	7	8	9	10
				(a) (b) (c) (d) (e) (f) (g)	(a) (b) (c) (d) (e) (f) (g)				

(2) The statement of the sums standing to the credit of the Wakf Administration Fund.

Name of the District.	Opening balance.	Contributions and receipts during the year.	Expenditure	Closing balance.
	2	3	4	5

District Judge.
District _____."

By order of the Governor of Bombay

Secretary to Government.

Office of the R.L.A.

Draft notification at pp.29-30 ante.- A revised draft notification is sent herewith. The expression "gross annual income" has been used in section 3(1) (b) and section 6D(b) of the Mussalman Wakf Act,1923. In these sections the expression means "gross income receivable annually" and not "actual receipts realised annually". It would not be proper to use the expression "gross annual income" in the rules in a sense differ from that in which it is used in the Act. In the revised draft notification, the word "gross" has, therefore been omitted from rule 18 and a suitable explanation of the expression "annual income" has been inserted in the rule.

2. Draft notifications at pp.31-33 and 33-34 ante.- These notifications are proposed to be issued under the Bombay Public Trusts Registration Act,1935 and the Parsi Public Trusts Registration Act,1936. Section 14 of the former Act and section 15 of the latter Act provide for contributions to be made to the Public Trusts Administration Fund and the Parsi Public Trusts Administration Fund respectively. The provisoes to both these sections provide that the contributions prescribed under the said sections shall be fixed at rates in proportion to the gross income of the public trust. According to the view taken by the High Court, the expression "gross income" in these sections means the gross income receivable and not actual receipts realised. The proposed rule fixing the contributions at rates in proportion to actual receipts realised would therefore be inconsistent with the provisions of the Act as interpreted by the High Court and, therefore, ultra vires. The two draft notifications are consequently not in order.

Yd/——— 16/9
Remembrancer of Legal Affairs.
Yd/—— 16/9

U.R. to R.D. No. 8208 dated the 18th September 1941.

Revenue Department.

Bombay Castle 1941

The Muselman Wakf Act,192

No.7401-33.- The following draft of a notification which it is proposed to issue under section 11 of the Musalman Wakf Act, 1923 (XLVI of 1923), is published as required by sub-section (1 of the said section 11. for the informa of all persons likely to be affected thereby, and notice is hereby given tha the said draft will be taken into consideration by the Government of Bomb on or after the 1941.

To be inserted by the Revenue Department.

2. Any objection or suggestion which may be received by the Secretary the Government of Bombay in the Revenue Department from any person with respect to the said draft on or before the date aforesaid will be considered by Govern- ment :-

Draft Notification.

In exercise of the powers conferre by section 11 of the Musalman Wakf Act, 1923 (XLVI of 1923) the Govern- ment of Bombay is pleased to amend the Bombay Musalman Wakf Rules, 1936, published in Government Notification in the Revenue Department, No.[illegible], dated the 4th January 1937, as follows, namely :-

In rule 18 of the said rules-

(i) the word "gross" wherever it occurs shall be deleted; and

(ii) after the third proviso, the following explanation shall be added, namely :

"Explanation.- In this rule, the expression "annual income" means the total amount received during the year."

By order of the Governor of Bombay,

Secretary to Government.

B.H.S. 28/4.